Darden, 5 Fla. 51, 81; *Hawthorn* v. *Ulrich*, 207 Ill. 430, 69 N. E. 885. The next step in the evolution of the subject in this country should be in line with the second English statute, for the doctrine of non-exclusive appointments introduces a mere technicality so long as it can be evaded by trivial gifts to the rest of the class. See 25 HARV. L. REV. 26.

PROXIMATE CAUSE — INTERVENING CAUSES — FORESEEABILITY: EFFECT OF VIOLATION OF STATUTE. — In an action for damages for negligent injuries, the plaintiff offered to prove that the defendant, in violation of a city ordinance prohibiting the sale of firearms to minors, sold a rifle and cartridges to a boy of fifteen, and that the boy accidentally shot the plaintiff with the rifle. *Held*, that a verdict was rightly directed for the defendant. *Hartnett* v. *Boston Store of Chicago*, 106 N. E. 837 (Ill.).

Upon common-law principles, the independent intervening act of a third person will not make a preceding cause remote if such act was foreseeable. *Lane* v. *Atlantic Works*, 111 Mass. 136; *Jennings* v. *Davis*, 187 Fed. 703, 711. This rule has been applied both to cases under statutes and, in their absence, to cases where foreseeable injury has resulted from firearms or explosives placed in the hands of third parties. *Dixon* v. *Bell*, 5 M. & S. 198; *Sullivan* v. *Creed*, [1904] 2 I. R. 317; *Carter* v. *Towne*, 98 Mass. 567; *Anderson* v. *Settergren*, 100 Minn. 294, 111 N. W. 279; *Binford* v. *Johnston*, 82 Ind. 426. The principal case reasoned that since no proof of the foreseeability of the boy's act was offered, the defendant was not the proximate cause of the injury. It is submitted that the correctness of the decision depends upon the construction of the ordinance involved. If the ordinance was passed to avert danger to other people from firearms in the hands of minors, then, the harm having resulted by the very means through which the legislative body apprehended it, the defendant should not be permitted to negative causation on the ground that harm through this means was not foreseeable in the particular case. See *Pizzo* v. *Wicman*, 149 Wis. 235, 134 N. W. 899; see 27 HARV. L. REV. 319 *et seq.* Under this view the plaintiff would be entitled to a verdict on the facts offered. If, however, the ordinance is, as it would in fact appear to be, solely for the purpose of preventing injury to minors from firearms in their own hands, then the result of the principal case is justifiable. Under a similar statute another jurisdiction has reached the same result as the principal case. *Poland* v. *Earhart*, 70 Ia. 285, 30 N. W. 637.

RESTRICTIONS AND RESTRICTIVE AGREEMENTS AS TO USE OF PROPERTY — AGREEMENT IN CONTRACT OF SALE TO ENTER INTO RESTRICTIVE COVENANT — ENFORCEMENT OF SUCH AN AGREEMENT AS AN EQUITABLE SERVITUDE. — The owner of adjoining tracts of land contracted to sell one to the plaintiff, who agreed to covenant in the conveyance not to make any use of the premises offensive to the vendor, his heirs and assigns, which would lessen the value of the adjoining land as residential property. The vendor then conveyed the adjoining land to a third party, and later completed the conveyance to the plaintiff, who convenanted as agreed. The plaintiff contracted to sell to the defendant, who refused to perform on learning of the restrictive covenant. *Held*, that the plaintiff is entitled to specific performance, since the restrictive covenant is not enforceable. *Millbourn* v. *Lyons*, [1914] 2 Ch. 231 (C. A.).

Equity will enforce a restrictive covenant, irrespective of whether or not it runs with the land at law, against assignees with notice who are not parties to the covenant, if there is a clear intention to bind the land, and not merely the parties to the covenant. *Tulk* v. *Moxhay*, 2 Phil. 774; *Whitney* v. *Union Ry. Co.*, 11 Gray (Mass.) 359. The agreement need not be in the form of a covenant — a mere oral agreement is enough. *Parker* v. *Nightingale*, 6 Allen

(Mass.) 341. In the principal case no difficulty arises on the question of notice. Accordingly, if there was an intention to bind the land at the time of the contract of sale, equity should enforce the agreement in spite of the conveyance of the prospective dominant tenement to a third party before the completion of the contract. *Barrow* v. *Richard*, 8 Paige (N. Y.) 351. The court, however, decided against the existence of any such intention, partly upon the ground that preliminary agreements will not be considered when the transaction has been embodied in a formal instrument. *Leggott* v. *Barrett*, 15 Ch. D. 306. The view of American courts on this matter is more liberal, and it is quite probable that they would come to a different result on this basis. *Parker* v. *Nightingale*, *supra*. Not finding such an intention, the principal case seems correct in holding that the conveyance itself created no enforceable right. For such restrictive agreements really create equitable property rights, closely analogous to legal easements. *Peck* v. *Conway*, 119 Mass. 546. And legal easements cannot be created by deed in favor of a third party. See *Owen* v. *Field*, 102 Mass. 90, 115; *cf. Haverhill Savings Bank* v. *Griffin*, 184 Mass. 419, 68 N. E. 839. But see *Gibert* v. *Peteler*, 38 Barb. (N. Y.) 488, 514.

STATUTE OF FRAUDS — INTERESTS IN LAND — PAROL SURRENDER OF FINAL YEAR OF LEASE. — In consideration of the lessor's oral promise to pay a certain sum, the lessee orally agreed to surrender at the beginning of the year, the last year of a six-year lease. The lessor later repudiated the agreement on the ground that the state statute of frauds required "the creation, grant, assignment, or surrender of any estate or interest in lands other than leases for a term not exceeding one year" to be in writing. WIS. STAT. (1913), § 2302. The lessee now sues to enforce the lessor's promise to pay. *Held*, that he can recover. *Garrick Theatre Co.* v. *Gimbel Bros.*, 149 N. W. 385 (Wis.).

Before the statute of frauds any lease in possession could be surrendered by parol. *Gwyn* v. *Wellborn*, 1 Dev. & Bat. (N. C.) 313. See *Schieffelin* v. *Carpenter*, 15 Wend. (N. Y.) 400, 405. Under the statute, even in the form which provides that "no lease, estate, or interest in land shall be surrendered unless by deed or note in writing," or by operation of law, the weight of American authority allows surrender by parol of terms creatable by parol. *Kiester* v. *Miller*, 25 Pa. 481; *Ross* v. *Schneider*, 30 Ind. 423. *Contra*, *Mollet* v. *Brayne*, 2 Camp. 103. Under the form of statute in force in the principal case, the validity of such parol surrenders is expressly recognized. Accordingly, as the statute clearly refers to the length of the term transferred, not to the length of the estate from which it was carved, a parol surrender of an unexpired year or less of a term should be valid. *Smith* v. *Devlin*, 23 N. Y. 363; but see *Kittle* v. *St. John*, 7 Neb. 73, 75. In the principal case, the surrender was to operate in the future. Under the ordinary form of the statute, however, a term for years may be created to begin in the future. *Young* v. *Dake*, 5 N. Y. 463; *Baumgarten* v. *Cohn*, 141 Wis. 315, 124 N. W. 288. Since a surrender is but a re-demise of part of the lease, the decision seems correct in holding that a surrender *in futuro* should be equally valid. *Allen* v. *Jaquish*, 21 Wend. (N. Y.) 628; see 2 REED, STATUTE OF FRAUDS, § 771.

STREET RAILWAYS — TORT LIABILITY — CONTRIBUTORY NEGLIGENCE DETERMINED BY RELIANCE ON OBSERVANCE OF STATUTORY DUTY. — The plaintiff, a truck driver, on approaching the defendants' tracks, looked for a car from a place where he had an unobstructed view far enough to see any car which could have reached him, if running at the rate of speed required by an ordinance. He then went on the track without looking again, and was struck by a car running at an illegal speed. The plaintiff offered no evidence to prove that he knew of the ordinance or relied upon it. The court below directed a verdict for the defendant. *Held*, that the directed verdict was